HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A No.1285 of 2005

Date of decision : 26.3.2007

Jai Parkash .....Appellant

versus

Smt.Santosh and another .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Akshay Kumar Goel, Advocate for the appellant
Mr.Rajinder Goel, Advocate for the respondents.

* * *

ORDER

HEMANT GUPTA, J.

The challenge in the present appeal is to the judgment and decree passed by the learned Courts below whereby suit for declaration that the plaintiffs are entitled to the maintenance from the defendant in terms of Section 19 of the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred to as the Act), was decreed.

The sole argument raised by the learned counsel for the appellant is that the property in the hands of the appellant is his self acquired property and, therefore, in terms of Section 19 of the Act, the appellant is not bound to maintain the respondent daughter-in-law. The said aspect of the matter has been considered by this Court in case reported as ***"Balbir Kaur versus Harinder Kaur, 2003 A.I.R. (Punjab and Haryana)-174",*** wherein it has been held that the widowed daughter in-law of a pre-deceased son is entitled to claim maintenance against the self acquired property of her father-in-law. In view of the aforesaid judgment, I do not find any substance in the argument raised by learned counsel for the appellant.

Learned counsel for the appellant then argued that in para No.16, the learned First Appellate Court has recorded a finding that the appellant has inherited some land from his father and the same is treated to be coparcenary property qua the deceased respondent No.1. Such observation is only obiter and is not a finding necessary for the determination of the right of the plaintiffs to claim maintenance in view of the aforesaid judgment.

In view thereof, I do not find any illegality or irregularity in the judgment and decree passed by the Courts below, which may give rise to any substantial question of law in second appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

March 26, 2007
**mohinder*